TENTATIVE AGENDA*

Times shown are approximate. Some items may take more or less time than scheduled, or the Chair may grant requests to hear items in an order other than shown.

1. Consideration of Action to Approve the Minutes of the June 6, 2019 Public Policy Committee - Cesare
3. Public Comment
4. Adjourn

* Please note that this tentative agenda may be changed prior to the scheduled meeting by modifying or deleting listed matters or adding new ones. Anyone interested in the final agenda for the meeting should contact the CAP office (623.869.2333) or consult CAP’s website (www.cap-az.com) twenty-four (24) hours in advance of the meeting.

^ Linkage to 2016 CAWCD Board of Directors Strategic Plan.
A meeting of the Public Policy Committee ("Committee") of the Central Arizona Water Conservation District's ("CAP" or "CAWCD") Board of Directors was called to order by Chair Karen Cesare on 6/6/2019 at 09:02 a.m. The meeting was held at the Central Arizona Project, 23636 North Seventh Street, Phoenix, Arizona, in the Board Room.

Committee Members present were: Chair Karen Cesare, Pima County; Jennifer Brown, Maricopa County; Jim Hartdegen, Pinal County; and Heather A. Macre, Maricopa County.

Committee Members not present were: Benjamin W. Graff, Maricopa County.

Staff members present were: Ted Cooke, General Manager; Jay Johnson, General Counsel; Bridget Schwartz-Manock, Director, Public Affairs; Jeff Gray, Legislative Affairs Manager; Megan Casey, Public Affairs Management Analyst; Jenn Miller, Board Support Specialist; and Michelle Oldfield, Public Affairs Specialist.

1. **CONSIDERATION OF ACTION TO APPROVE THE MINUTES OF THE MAY 2, 2019 PUBLIC POLICY COMMITTEE - CESARE**

On a motion (Board Member Macre) and a second (Board Member Hartdegen), approved the minutes of the May 2, 2019 meeting. Motion passed.

*Voting yes:* Karen Cesare, Jennifer Brown, Jim Hartdegen, Heather A. Macre

2. **OVERVIEW OF 2019 STATE LEGISLATIVE SESSION - ISAACSON & WALSH**

Don Isaacson, Isaacson & Walsh, gave an update on the 2019 Arizona State legislative session. He reported that this session went longer than most, and that major notable items included the Drought Contingency Plan and a new focus on water coming from elected officials. He reported that the budget passed at $11.8 billion; $1.4 billion more than last year, which is reflective of a robust economy.

3. **REPORT ON 2019 STATE LEGISLATIVE SESSION ADJOURNMENT AND FINAL REPORT - GRAY**

Jeff Gray, Legislative Affairs Manager, gave an update on the current legislative session. He explained that the Legislature passed an $11.8 billion budget for FY 2020 on May 27. Mr. Gray noted that $17.3 million was appropriated for Arizona Department of Water Resources, comprised of: $14.9 million from the State General Fund, $1.2 million from the Water Bank, $946,000 from the Water Resources Fund, and $268,000 from the Assured and Adequate Water Supply Development Fund.
Mr. Gray reported that the Water Banking Fund will transfer $1.2 million to ADWR and $200,000 to Arizona Navigable Stream Adjudication Commission. He also noted the Water Protection Fund will receive $750,000 from the General Fund.

Mr. Gray reported on the following bills that affect CAP operations:

- HB2747 (general appropriations act; 2019-2020 Sec. 156. Appropriation; temporary groundwater and irrigation efficiency projects fund; fiscal year 2019-2020) The sum of $20 million is appropriated from the State General Fund in fiscal year 2019-2020 to the temporary groundwater and irrigation efficiency projects fund to construct, rehabilitate and lease wells and infrastructure related to the withdrawal and efficient delivery of groundwater by qualified irrigation districts. Monies must be repaid by December 31, 2021 without interest.
- SB1227/HB2545 (Colorado drought contingency amendments) Signed by the Governor
- SJR1001/HJR2002 (Colorado river drought contingency plan) Signed by the Governor
- HB2586 (water supplies; groundwater replenishment; credits) CAP suggested amendments for this bill, but it did not move past Committee of the Whole.

Mr. Gray reported on the following bills that CAP did not have an official position on:

- HB2124 (s/e appropriations; courts; water master)
- HB2467 (committees; west basin water users)
- HB2475 (water use; criminal penalty; wells)
- HB2477 (adjudication statutes; unconstitutional provisions; repeal)
- HCM2004 (reserved water rights; exclusion)
- HCR2019 (support; water management policies)
- SB1440 (s/e appropriations; employees; water resources)

4. REPORT ON FEDERAL ISSUES THAT COULD AFFECT CAP AND POSSIBLE CONSIDERATION OF ACTION OF A RECOMMENDATION THAT THE BOARD TAKE ACTION ON FEDERAL ISSUES THAT COULD IMPACT CAP INCLUDING BUT NOT LIMITED TO H.R. 2459/S. 1277 HUALAPAI TRIBE WATER RIGHTS SETTLEMENT ACT OF 2019 AND THE DRAFT DROUGHT RESILIENCY AND WATER SUPPLY INFRASTRUCTURE ACT - GRAY/RYAN SMITH, BROWNSTEIN HYATT FARBER SCHRECK

Ryan Smith, of Brownstein Hyatt Farber Schreck, gave an update on federal issues. First, he updated the committee on the House Appropriations Bills. He explained that the proposed funding level for the Bureau of Reclamation is more this year than last which may assist with the implementation of DCP. He noted that the House Energy and Water bill includes $40 million for water conservation activities in drought areas and agriculture mitigation. Mr. Smith noted that the Senate budget bills have not been drafted yet, so while these are not final, he believes they are a good start.

Mr. Smith is working with Senate Energy and Natural Resources Committee on revising language within the Drought Resiliency and Water Supply Infrastructure Act. Mr. Gray recommended to the Committee that the CAP position should be to monitor this bill with an amendment to include language that would require CAWCD agreement before any expansion of the CAP canal could take place.
Mr. Smith updated the Committee on the federal infrastructure negotiations. He mentioned that discussions had previously stopped, but may reopen soon, likely in the context of the drought bill previously discussed.

Mr. Smith noted that Colorado River Basin Salinity Program Appropriations included a $10 million request that is still in progress. He mentioned that the White Mountain Apache Tribe received a two-year extension on their settlement due to engineering setbacks.

Mr. Gray updated the Committee on H.R. 2459/S. 1277 Hualapai Tribe Water Rights Settlement Act of 2019. He reported that the legislation would approve the settlement of water rights claims of the Hualapai Tribe and certain allottees in the State of Arizona, to authorize water project construction. He recommended support of the bill.

**On a motion (Board Member Brown) and a second (Board Member Macre), recommended that the Board adopt a position on the following pending federal legislation of interest to CAP:**

- **Drought Resiliency and Water Supply Infrastructure Act discussion draft (MONITOR with amendment).** Motion passed.
  
  *Voting yes: Karen Cesare, Jennifer Brown, Jim Hartdegen, Heather A. Macre*

5. **PUBLIC COMMENT**
   
   No public comment.

6. **ADJOURN**
   
   There being no further business to come before the Committee, the meeting adjourned at 09:46 a.m.

___________________________
Karen Cesare
Chair
Agenda Number 2.

CONTACT:  
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MEETING DATE:  
Thursday, August 1, 2019

AGENDA ITEM:  
Report on Federal Issues that Could Affect CAP and Possible Consideration of a Recommendation that the Board Take Action on Federal Issues that Could Impact CAP including but not limited to S. 1932 Drought Resiliency and Water Supply Infrastructure Act (Leadership and Public Trust: Relationships - Other Stakeholders*) - Gray

RECOMMENDATION:  
See attached documents and proposed staff recommendations.

FISCAL IMPLICATIONS:  
No

Impact on Budget:  
None

Additional spending authority requested:  
None

Impact on Reserves:  
None

Impact on Rates:  
None

LINKAGE TO STRATEGIC PLAN, POLICY, STATUTE OR GUIDING PRINCIPLE:  
CAWCD 2016 Board of Directors Strategic Plan

- Leadership & Public Trust: Relationships – Improve relationships with customers and stakeholders
- Leadership & Public Trust: CAP Board Leadership – Equip Board members to effectively represent CAP and its positions
- Water Supply: Optimize reliability and sustainability of CAP water supply

PREVIOUS BOARD ACTION/ACTIVITY:  
November 1, 2018 Public Policy Committee previewed and discussed the draft proposed 2019 Federal Legislative Agenda

December 6, 2018 Board adopted 2019 Federal Legislative Agenda

June 6, 2019 Board approved the motion to monitor with amendment the Drought Resiliency and Water Supply Infrastructure Act discussion draft

ISSUE SUMMARY/DESCRIPTION:  
This update reports on and requests guidance on bills being considered by the United States Senate relating
SUGGESTED MOTION:
I move that the Public Policy Committee recommend the Board adopt a position on the following pending federal legislation of interest to CAP: (staff recommendations in parentheses)

S. 1932 Drought Resiliency and Water Supply Infrastructure Act (SUPPORT)

ATTACHMENTS:
1. Federal Update
2. Federal PowerPoint
3. S.1932
Federal Update

Pre-Recess Debt-Ceiling and Budget Negotiations Stall Appropriations; Congress Readies for Recess

In June and the first week of July, the House passed several “minibus” spending packages that included appropriations for the entire federal government. The Senate, however, remained in a holding pattern regarding appropriations while it waited for the administration to complete negotiations on a deal to address the debt-ceiling and the overall federal budget.

On July 22, the White House and congressional leaders reached an agreement to suspend the debt ceiling until July 2021. As part of the agreement, the parties also agreed to two years of top-line numbers for federal funding for FY2020 and FY2021. Initial top-line numbers being reported were $738 billion and $740 billion for defense spending in FY2020 and FY2021, respectively. Nondefense spending would be $632 billion for FY2020 and $634.5 billion for FY2021. The White House originally requested top-line spending numbers of $750 billion in defense and $567 billion in nondefense for FY 2020 when it submitted its request to Congress earlier this year.

Congress is expected to lift the debt-ceiling before it leaves for the August recess. Once they return, the Senate will then begin work to meet the October 1 deadline for appropriations. The White House and congressional leaders have agreed to pass both the FY2020 and FY2021 appropriations through a twelve-bill omnibus. If Congress cannot finish work on the FY2020 appropriations within the three weeks of legislative session before October 1, then a stop-gap continuing resolution may be necessary to avert a government shutdown, which will allow Congress more time to complete the appropriations process. However, the agreement explicitly states that the White House and Congress will work to avoid a government shutdown.

Department of the Interior Announces BLM Moves as Part of Reorganization

The Department of the Interior announced in July (see attached letter) that it will relocate 220 Bureau of Land Management (BLM) staff currently located in Washington, DC to a number of western states. Eighty-five positions will be relocated to Colorado, including twenty-seven senior positions, including the BLM director, deputy director of operations, and assistant directors, that will move to BLM’s Western headquarters in Grand Junction, CO. Other states where positions will relocate include: 37 to Utah; 34 to the Arizona State Office and the National Training Center, which is based in Phoenix; and 32 to the New Mexico State Office in Santa Fe.
The following Federal Legislative Issues Update outlines the status of the Board-approved 2019 Legislative Agenda, as well as other relevant federal issues. Legislative Affairs staff comes before the Public Policy Committee on a regular basis to seek guidance and direction on these and other proposed legislation and rules that may arise during the year.

**CAP Authorities and Operations**

**CAP Position:** Monitor legislative and regulatory efforts that could impact CAP’s contractual authorities or directly impact CAP water supplies and operations.

**Middle Class Health Benefits Tax Repeal Act of 2019**

On July 17, the House approved H.R.748, the Middle Class Health Benefits Tax Repeal Act of 2019. The Legislation repeals a 40% excise tax on certain employer-provided health plans. The excise tax was established by the Affordable Care Act and would become effective in 2022. If the tax is not repealed, it is estimated to cost CAP $400,000 annually beginning in 2022.

H.R.748 passed the House with bipartisan support by a vote of 419-6. The Senate version, S.684, has not yet received a hearing, but the Legislation is expected to pass sometime this year. H.R.748 has 369 cosponsors, including Representatives Tom O'Halleran (D-AZ-1), Ann Kirkpatrick (D-AZ-2), Raul Grijalva (D-AZ-3), Paul Gosar (R-AZ-4), Andy Biggs (R-AZ-5), David Schweikert (R-AZ-6), Ruben Gallego (D-AZ-7) and Debbie Lesko (R-AZ-8). S.684 has 42 cosponsors including Senators Martha McSally (R-AZ) and Kyrsten Sinema (D-AZ).

**Colorado River Water Supply**

**CAP Position:** Support the Lower Basin Drought Contingency Plan (DCP), including legislation that directs the Secretary of the Interior to implement the DCP.

Continue to cooperate with Federal, State, Tribal, and other stakeholders to mitigate potential impacts on the CAP water supply and support water conservation and augmentation activities, such as the Pilot System Conservation Program, desalination, weather modification, and water reuse and recycling programs, as well as other programs.

Continue to support the operation of the Yuma Desalting Plant or suitable alternatives to reduce system losses.

**Drought Resiliency Bill Receives Hearing**

On July 18, the Senate Energy and Natural Resources Subcommittee on Water and Power convened a hearing to examine opportunities to increase water storage and conservation through rehabilitation and water supply infrastructure development. The subcommittee received testimony from the Department of Interior, water resource organizations and conservation groups regarding the Aquifer Recharge Flexibility Act (S. 1570), the Drought Resiliency and Water Supply Infrastructure Act (S. 1932), and the Water Supply Infrastructure
Rehabilitation and Utilization Act (S. 2044). S. 1932, introduced in June by Senators Cory Gardner (R-CO), Diane Feinstein (D-CA), Martha McSally (R-AZ), and Kyrsten Sinema (D-AZ) would support water infrastructure in Reclamation states and provides for grant funding for both federally-owned and state-led storage projects.

On June 6, the CAWCD Board voted to monitor the legislation and seek a clarifying amendment, which was included in the introduced bill.

**CAP Position: MONITOR with amendment**  
**Recommended Position: SUPPORT**

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**Cybersecurity**

*CAP Position: Monitor legislative efforts to address cybersecurity and potential threats to critical infrastructure and vital computer systems.*

No update to report at this time.

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**Central Arizona Project Water Infrastructure**

*CAP Position: Monitor proposals by the Executive and Congress to provide financing opportunities to modernize U.S. infrastructure and determine possible opportunities for CAP.*

No update to report at this time.

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**Energy Legislation**

*CAP Position: Monitor legislative efforts that may impact CAP operations, including CAP’s ability to secure affordable energy and ensure reliable transmission delivery. Continue efforts to engage elected officials, stakeholders, and governmental agencies regarding federal activities that affect the Navajo Generating Station.*

No update to report at this time.

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**Water Quality and Salinity Issues**

*CAP Position: Monitor water quality issues impacting the Colorado River that may affect CAP operations.*

Support the activities of the Colorado River Basin Salinity Control Forum, including efforts to secure adequate funding and improve water management.
Support the efforts of the Lower Colorado River Water Quality Partnership to address water quality issues of the Colorado River.

No update to report at this time.

Indian Water Rights Settlements

**CAP Position:** Continue to collaborate with Arizona Tribes and other stakeholders on issues related to resolving water rights claims.

Continue to support legislation necessary and appropriate to enact the Hualapai Tribe water rights settlement.

**Hualapai Tribe Water Rights Settlement Act of 2019**

On May 1, 2019, Rep. Tom O’Halleran (D-AZ-1) introduced H.R.2459, Hualapai Tribe Water Rights Settlement Act of 2019. The legislation would approve the settlement of water rights claims of the Hualapai Tribe and certain allottees in the State of Arizona, to authorize water project construction. On June 26, 2019 the House Natural Resources Subcommittee on Water, Oceans, and Wildlife held a hearing on the House bill. ADWR Director Tom Buschatzke testified in support and CAWCD submitted a written statement of support for the bill to the committee. During its testimony at the hearing, the administration outlined its concerns. A companion measure (S.1277) was introduced by Sen. Martha McSally (R-AZ) and cosponsored by Sen. Kyrsten Sinema (D-AZ) in the Senate Committee on Indian Affairs.

**CAP Position:** SUPPORT

**White Mountain Apache Tribe Settlement Extension**

On Tuesday, May 21, the House Appropriations Committee approved a two-year extension for the White Mountain Apache Tribe’s water settlement as authorized by the Claims Resettlement Act of 2010 (Public Law No. 111-291). In a manager’s amendment offered by Rep. Marcy Kaptur (D-OH) to the FY 2020 Energy and Water Development appropriations bill, the deadline would be extended from 2021 to 2023. The House voted to pass the extension in June when it passed its minibus spending bill. The Senate would need to pass the extension in their appropriations bill.

**Federal Rulemaking**

**CAP Position:** Continue to monitor federal rulemaking and implementation related to energy, air quality, water quality, and other issues that may affect CAP operations.
Waters of the United States

On July 15, the Environmental Protection Agency (EPA) sent the final rule for repeal of the Clean Water Act definition of “Waters of the United States” (WOTUS) to the Office of Management and Budget (OMB) for final White House review. In February 2019, the draft rule was published in the Federal Register. The EPA accepted comment through April and declined requests for an extended comment period. According to the newly revised Unified Agenda, the final repeal of the WOTUS rule is expected in August 2019, while a finalized new WOTUS definition is planned for December 2019.

If you have any questions or would like more information regarding any of the issues contained in this report, please contact CAP Legislative Affairs at 623-869-2425.
The Honorable Lisa Murkowski  
Chair, Subcommittee on Interior and Environment  
Committee on Appropriations  
United States Senate  
Washington, D.C. 20515

Dear Chair Murkowski:

Consistent with the Committee’s report language to notify you thirty days before we obligate the funds Congress provided for the reorganization, the Department of the Interior provided written notification of these actions on May 8, 2019, and on June 11 provided a more detailed briefing on that notification. In addition, Secretary of the Interior David Bernhardt committed to you during his appearance before your subcommittee that he would provide you with additional information on the Bureau of Land Management’s realignment of resources to the West at the appropriate time. I am pleased to now provide you with the following information on this matter.

Background

In May of 1937, Congress formally created the position of the Deputy Secretary (then Under Secretary) of the Department of the Interior. Records detailing the Senate’s consideration of this position in 1936 reveal the understanding of the importance of ensuring that senior leadership, including the Secretary of the Interior, would have an increased presence in the Western United States. Emphasis was placed on the need to align the Department’s personnel footprint and resources with its physical footprint and resources, which continue to be primarily based in the West.

Realigning Departmental human resources closer to the lands and resources it manages has been of significant interest not only to Congress, but also its constituency of states, tribes, and local communities. Bipartisan support illustrates a number of significant benefits, ranging from more informed decision-making to increased efficiency and coordination among stakeholders and the Department’s agencies.

The BLM has thoroughly assessed its existing footprint and operations in Washington, D.C., and the immediate needs of its State Offices across the West to determine the best approach for a meaningful reorganization. From the early stages of the BLM reorganization effort, consistent with feedback from a broad range of states and partners, the BLM has committed that the State Office structure will be maintained. This proposal not only maintains that structure but serves to strengthen the Bureau’s organization at the state level even further.
As Secretary Bernhardt has observed, a meaningful reorganization is not simply about where functions are performed; rather, it is rooted in how changes will better satisfy the needs of the American people. Time and time again, the Secretary has received feedback from Members of Congress, Governors, local officials, and citizens closest to the resources that their BLM State, District, or Field Office is understaffed or lacks resources to support the needs of their constituents. Under our proposal, every Western State will gain additional staff resources. This approach will play an invaluable role in serving the American people more efficiently and advancing the BLM’s multiple-use, sustained yield mission.

Summary

The Secretary spent considerable time and effort in reviewing the facts and assessing varying options. As a result of this effort, the Secretary determined the proposed approach should achieve the following objectives:

- Delegating more responsibility down to the field;
- Maximizing services to the American people; and
- Increasing the BLM’s presence closest to the resources the BLM staff manages.

These objectives are to be achieved through the following actions:

- Maintaining the necessary core D.C. based functions in Washington, D.C.;
- Optimizing the efficiency of some headquarters positions currently based in Washington, D.C. by relocating them to the State Offices across the West that their work supports;
- Allocating certain positions to State Offices to perform State Office functions;
- Establishing a BLM Headquarters in Grand Junction, Colorado.

Each position currently performing headquarters-specific functions both in Washington, D.C. and in the field was assessed and analyzed. A total of 550 positions were evaluated. Of those, 166 headquarters positions are already assigned to locations in the field – this includes positions such as Special Agents, who are part of the BLM’s Office of Law Enforcement and Security directorate, and Horse Wranglers, who are part of the Wild Horse and Burro Program. Of the total 550 positions, 74 will be allocated to the BLM State Offices, leaving 476 positions performing headquarters duties.

Under the BLM’s implementation plan, the Deputy Director of Policy and Programs will remain in Washington, D.C., along with 60 staff who will continue to perform functions in the Main Interior Building that are inherently and logically located in Washington. For example, the Bureau’s staff who directly inform and perform duties tied to its budgetary responsibilities will continue to remain in Washington, as will staff performing functions in its Legislative Affairs, Regulatory Affairs, Public Affairs, and Freedom of Information Act divisions.

Two hundred and twenty-two positions currently performing headquarters duties in Washington, D.C., will continue to accomplish these functions while being based in locations throughout the BLM’s western regions and landscapes in order to optimize the BLM’s presence where the needs are greatest. In consultation and coordination with each of the Assistant Directors, we thoroughly
assessed the duties and responsibilities, reviewed the current duty stations, considered appropriate western locations and the benefits and challenges of a potential relocation for each of these 222 positions. These relocations will improve the BLM’s headquarters operations on a state-by-state basis and will enhance coordination with its constituencies.

For instance, the BLM will assign staff in the rangeland management program to Idaho, which our analysis revealed to be disproportionately understaffed relative to their mission. Further, renewable energy program staff will be assigned to states such as California, where a number of solar, wind, and geothermal projects are in process, and where we can foreseeably anticipate that this type of workload will continue. The chart below details the proposed assignments of positions by location and program (directorate), including the above mentioned 74 positions.

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\(^1\) D.C. Location refers to the Main Interior Building.
\(^2\) ES stands for the Eastern States Office of the BLM.
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Given the need for additional technical experience in the field, the Bureau will allocate 74 headquarters positions, some of which have been vacant and unfilled for several years, to perform critical duties closer to the Bureau’s resources in its State Offices. The resources available for these positions will be realigned to the budgets of the appropriate State Office, to which they will report, to address immediate needs and priorities. For example, the BLM proposes dispersing additional planning and environmental analyst resources, which formerly performed key functions for National Environmental Policy Act (NEPA) reviews at headquarters, to states with environmental analyses in process, ranging from Colorado to Oregon. Given that under Secretary’s Order 3355, the responsibility for this work has shifted to BLM State Directors, these resources are now more appropriately allocated to State Offices. As discussed below, these particular positions are being allocated based on direct consultation with State Directors on their staffing necessities.

Lastly, the BLM Director, Deputy Director of Operations, Assistant Directors, and a few selected members of their staffs, totaling 27 positions, will be located in Grand Junction, Colorado, as part of an initiative to establish the Headquarters.

As it stands, nearly half of the Bureau’s Senior Executive Service (SES) leadership is currently based in Washington, D.C., despite the fact that their functions and operations are overwhelmingly carried out in the West. In particular, the BLM’s Assistant Directors, who provide policy guidance, program oversight, and assistance on audits and evaluations for their respective national programs, are all currently based in Washington, D.C. The relocation of these leadership positions will significantly benefit the Bureau’s day-to-day operations. The positive returns will be realized in cost (e.g. lower office lease costs and locality pay costs) and time savings; enhanced coordination with employees, external partners, and stakeholders; and more informed and improved decision-making based on on-the-ground experience.

For example, locality adjustment rates for western locations range from 15.67 percent to 26.30 percent. The salary net present savings for an employee at a General Schedule (GS) pay scale, 3

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3 Secretary’s Order 3355, Streamlining National Environmental Policy Act Reviews and Implementation of Executive Order 13807, “Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects,” and the April 2018 Deputy Secretary Memorandum, specifically establishes that the Senior Executive Service (SES) member with line authority over the proposed action and lead SES attorney bear responsibility for NEPA documents.
grade 12, in a State Office compared to the Washington, D.C. locality ranges from $33,764 to $173,808. At a net present value, the payback will exceed $50 million. These savings extend to both the Headquarters and State Offices where employees will be relocated and aligned. Ultimately, a Headquarters in the West will maximize services to the American people while increasing the BLM’s presence closest to the resources it manages.

Implementation of the FY 2019 spend plan will utilize the $5.6 million funding allocation for FY 2019. The initial relocation of approximately 27 employees to the BLM’s Headquarters will be achieved through voluntary reassignments, providing commitments are secured by August 15, 2019. Once there is a commitment, the Bureau would issue the employee transfer orders, which will allow employees to work with the agency travel office to estimate moving costs and obligate the necessary funds for the permanent change of station (PCS). Positions that are currently vacant will be advertised in Grand Junction. Directed reassignments will capture the balance of positions that will establish the Headquarters.

The remaining positions will be relocated to their newly assigned locations under the various State Offices following a similar method. Voluntary reassignments will be made as State Directors identify space and funds remain available for PCS costs. Currently vacant positions will be advertised in their respective locations. Implementation of relocations and realignments will take place over the next 15 months until the BLM’s M Street Office lease expires at the end of calendar year 2020.

The discussion below provides more detailed information related to the BLM’s operations and functions, the need and rationale for the reorganization, and is followed by an analysis of how each state will benefit from the BLM’s reorganization.

The BLM’s Western Footprint

Almost all of the BLM’s operations and functions are located in the Western United States. Table 1 illustrates this fact by examining the percentage of current BLM activities that occur in the West versus the Eastern United States.

<table>
<thead>
<tr>
<th></th>
<th>Western States</th>
<th>Eastern States</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>% of Total</td>
</tr>
<tr>
<td>BLM FTEs (FY19)</td>
<td>8,690</td>
<td>93%</td>
</tr>
<tr>
<td>Senior Executive Service</td>
<td>13</td>
<td>54%</td>
</tr>
<tr>
<td></td>
<td>GS-15</td>
<td>31</td>
</tr>
<tr>
<td>------------------------</td>
<td>-------</td>
<td>------</td>
</tr>
<tr>
<td>GS-14</td>
<td>144</td>
<td>54%</td>
</tr>
<tr>
<td>Recreational use of BLM lands (visits, FY18)</td>
<td>67.9M</td>
<td>99.7%</td>
</tr>
<tr>
<td>Grazing permits and leases in force (as of May 2019)</td>
<td>17,864</td>
<td>100%</td>
</tr>
<tr>
<td>Wild horse and burro populations on public lands managed by BLM (March 2019)</td>
<td>87,885</td>
<td>100%</td>
</tr>
</tbody>
</table>

Despite the majority of the BLM’s personnel and programs being located in the Western United States, a disparate number of senior level officials and policymakers are currently located in Washington, D.C. As referenced above, nearly half of the 24 SES employees working at the BLM are based in Washington, D.C. This includes the Director, the Deputy Director of Policy and Programs, the Deputy Director of Operations, and the Assistant Directors that lead the following divisions of BLM:

- Office of Law Enforcement and Security
- Resources and Planning
- Energy, Minerals, and Realty Management
- National Conservation Lands and Community Partnerships
- Communications
- Human Capital Management
- Business Fiscal and Information Resources Management

Each of these positions oversees a variety of programs and is primarily responsible for the creation and establishment of national policies consistent with the Federal Land Management and Policy Act (FLPMA), which directly impacts the day-to-day operations of BLM staff, particularly those in the West.

Additionally, a number of other senior leadership positions, such as Deputy Assistant Directors and Program Leads, are located in Washington, D.C. This translates to over 60 percent of the 79 current GS-15 positions and nearly half of the 265 GS-14 positions being located in Washington, D.C. These senior positions have a disproportionate influence on agency decision making and policy setting. With such large numbers of senior leadership located in D.C., policy direction often comes from individuals who have very little interaction with the constituents, and the land itself, that are most impacted by BLM policies.
FIGURE 1. Distribution of BLM managed surface lands across the United States (shaded areas).

FIGURE 2. Distribution of BLM employee locations across the United States. BLM employees are concentrated in the Western portion of the U.S. Approximately 649 BLM employees are currently located in, or aligned with the Washington, D.C. office, although this number includes some individuals classified as remote workers. Larger circles on the map indicate greater numbers of BLM employees (e.g., Anchorage, Boise, Denver).
The Benefits of Relocation to the West

A. Enhanced Management, Oversight, and Communication

The relocation of staff to State Offices and leadership to a Headquarters in the West will strengthen the Bureau’s organizational effectiveness in order to better achieve its multiple-use, sustained yield mission under FLPMA. This relocation provides numerous benefits, including:

1. Executive personnel are physically closer to the geography they manage, enabling closer oversight and accountability for the BLM’s activities and decisions, including field or site visits for high priority and/or controversial projects so managers can gain a more fulsome understanding of what is being proposed on the ground.
2. Senior, seasoned staff are enabled to mentor and train future leaders of the Bureau through consistent interaction and guidance.
3. It facilitates more frequent, face-to-face communication among leadership and bureau staff, partners, and stakeholders.
4. It maximizes administrative efficiencies through potential shared services and other collaborative actions are maximized.
5. It concentrates a greater proportion of BLM staff in a time zone closer to the areas wherein the agency primarily operates, aligning working hours and improving communication.

B. Improved Customer Service and Partner/Stakeholder Engagement

Currently, required travel creates a burden for BLM stakeholders to interact directly with BLM executives. Closer physical proximity of BLM leadership to bureau stakeholders and constituents will improve bureau operations and decision-making. Strong relationships with Western States, communities, and other partners in states and regions are important for effective communication. Relocation improves stakeholder engagement by:

1. Facilitating relationship-building with partners through frequent and meaningful engagement.
2. Fostering better understanding of the Western communities served by the Bureau of Land Management.
3. Allowing problem solving to occur earlier in the decision-making process and facilitating better outcomes when a complex decision or problem arises.

C. Increased Functionality

The vast majority of the functions the BLM performs are located in the Western U.S. These include many of its highest priority programs. The agency’s firefighting operations long ago decided that moving its operations West would provide increased effectiveness in fire preparedness and suppression. However, it was not until the 2000s that the BLM relocated its Assistant Director, Deputy Assistant Directors, and staff for the Fire and Aviation program to the National Interagency Fire Center (NIFC), the nation’s support center for wildland firefighting,
located in Boise, Idaho. That move has proven to have been both wise and successful. NIFC’s model allows various agencies to jointly coordinate to address wildfires across the country, and the BLM’s physical representation on-site has been beneficial for not only the swift deployment of resources to the field, but also more efficient utilization of staff and assets to address ranging needs across the country.

In this context, relocating BLM leadership closer to the actual fire activities in which the agency engages will provide greater understanding of the needs on the ground and better facilitate meaningful policies to help mitigate catastrophic wildfires. For instance, the hiring of seasonal staff to meet fire season needs often requires significant engagement with both the Deputy Director for Operations and Assistant Director for Human Capital Management, as well as the National Operations Center. Having the Deputy Director and Assistant Director close to the Center and to NIFC will create streamlined hiring for critical, lifesaving positions. Similarly, other emergency preparedness, staffing, and coordination with local law enforcement would be greatly enhanced by having bureau leadership closer to its operations in the field.

Other policy making functions would also benefit by being closer to the field. The BLM’s management of livestock grazing on public lands would be greatly aided by closer interaction with the grazing community located in the West. Proximity to range technicians will also benefit the Assistant Director for Resources and Planning and staff, who work to create policies that directly impact the practitioners of the grazing and rangeland program.

D. Potential for Reduced Leasing Costs and Consolidation

The relocation of staff will lead to a more efficient operation and substantial cost savings for the Bureau. Perhaps the most striking savings is in lease space costs. With the location of a Headquarters in Grand Junction, which has affordable leasing options, cost can be reduced while increasing the Bureau’s leadership presence closest to the resources it manages. To examine this, the BLM compared and analyzed lease space based on the General Services Administration (GSA)’s lease rates per square foot data for the Main Interior Building (MIB) in Washington, D.C., and an office location in Grand Junction, CO. The costs for 27 staff identified as part of the establishment of a Headquarters in the West are as follows:

- $50.00 per square foot for the MIB;
- $32.35 per square foot for an office space in Grand Junction.

In addition to the costs per square foot, the BLM estimates roughly $6,000 per person for equipment and furnishings, based on GSA estimates. The lease rates are specifically of immediate importance right now because the BLM is at a crossroads for its Washington, D.C. office. Currently, employees in Washington, D.C. are located in two facilities; the MIB on C Street in Northwest D.C., and the 20 M Street building in Southeast D.C. The lease for the M Street location expires at the end of calendar year 2020. Accordingly, approximately 450 BLM employees must vacate the building by the end of 2020. This includes employees in the BLM’s Eastern States Office, which will remain in the Washington metropolitan area. A renewed lease for M Street is not an option, as the new rate would exceed $50 per square foot – a cost that is
substantially greater than is currently being paid and much larger than would be offered in Grand Junction.

For the 296 positions that will be relocated to the West and allocated to State Offices, existing office space in State, District, and/or Field Offices will be used to house staff, resulting in no incremental space costs as opposed to the real expense of moving these positions into the MIB. In the event that additional lease space does need to be acquired by State Offices, estimated commercial lease costs per square foot range from approximately $14.00/per square foot to $31.00/per square foot, which will offer a significant savings compared to the MIB square foot costs.

E. Decreased Travel Expenses

For FY 2018, BLM employee travel between Washington, D.C., and Western states totaled more than $3.2 million. Relocating staff to State Offices and establishing a Headquarters in the West will significantly decrease travel expenses for the following reasons:

- Frequency of travel to and from Washington, D.C., will decrease because executives’ need to travel to and from D.C. will decrease.
- The overall duration of travel (shorter trips) is expected to be reduced when BLM personnel are located more centrally to the location of BLM activities.
- Travel time to and from training centers will decrease, enabling more efficient training opportunities for employees, enhancing the BLM’s ability to attract and retain talented employees, and allowing executive leadership more frequent opportunities to interact with staff during training opportunities.
FIGURE 3. Most frequent BLM travel origination cities for travel to Washington, D.C.

The establishment of a Headquarters in Grand Junction will improve travel efficiency by reducing the number of long cross-country flights, resulting in shorter trips, and will allow more opportunities for day trips in some areas. Shorter duration travel is more efficient, cost-effective, and is expected to increase productivity with increased time spent on work activities rather than travel. The alignment of staff to State Offices across the West will also result in similar benefits.

The BLM's training centers, located in Phoenix and Boise, are important resources for agency staff. These centers also provide space for meetings and conferences that many BLM staff already attend. In addition, training is provided for Department staff from other bureaus. The location of the training centers allows easy access by BLM and other DOI staff located in Western cities. Shorter direct flights, or drives, could replace long, cross-country trips. Relocation would also enable BLM leadership to more easily attend trainings and meetings and provide leadership perspectives for attendees. By locating staff closer to the training centers, opportunities for career development are also enhanced.

State-by-State Analysis

The following discussion provides detail on how the BLM relocation will impact Western states where the vast majority of BLM's lands and programs are located.
Alaska: Four headquarters positions will be allocated to the Alaska State Office in Anchorage, Alaska, to address needs specific to NEPA analyses, realty, and business support. The State Office requires expertise and guidance within these capacities to support:

- Implementation of the Vietnam Veterans Allotment section of the Dingell Act [Public Law No: 116-9];
- Navigability determinations for title purposes in utilizing the Recordable Disclaimer of Interest (RDI) process to clear title for submerged lands and RS2477 claims by the State of Alaska; and
- Mining Law Administration program.

Arizona: Thirty four positions currently in Washington, D.C., will be relocated to the Arizona State Office and the National Training Center, which is based in Phoenix. These positions will support both national and on-the-ground priority work related to planning, lands, and realty. Five additional positions will also be allocated to the State Office. These changes benefit both entities. Given the ongoing work occurring in the State, as well as the training opportunities that the National Training Center provides to employees across the country, the location of these staff members will be integral to educating and empowering the Bureau. Staff from Resources and Planning and Energy, Minerals, and Realty with training-based program descriptions are needed in Arizona and will address a considerable deficit facing the Bureau.

Specifically, the State Office has indicated it will benefit from the policy discussions and mentoring regarding priority work, including:

- Realty and right-of-way priority/special projects and backlog;
- Special legislative projects, such as implementation of Public Law No: 116-9; and
- Strike team assignments in response to time sensitive and special projects.

California: Twelve positions currently in Washington, D.C., will be relocated to the California State Office in Sacramento and 8 additional positions will be allocated to the State Office. As I indicated above, because there are a number of solar, wind, and geothermal projects in process in California, and in neighboring Nevada, the primary focus of these positions will be in support of the Renewable Energy Program. The upward trend for renewable energy projects is expected to continue along with an increase in complexity. These staff will be able to assist with navigating implementation of the Geothermal Steam Act and the BLM's regulations in a complex and litigious setting. They will also be available to support responding to protests, appeals, and litigation, and engage, as appropriate, on NEPA matters related to the outcomes of appeals and litigation. Having realty expertise for rights-of-way (renewable energy, utility and other rights-of-way renewals) will benefit the State, as will having realty specialists to assist with coordination of work and who can provide expertise across all areas of lands and realty.

Collectively, these positions will be best able to support national policy needs while also providing support to the State Office. Several positions will be derived from the Bureau's Communications directorate to support both national Bureau objectives and the State's emerging media outreach initiatives.
**Colorado:** Eighty-five positions currently in Washington, D.C. will be relocated to Colorado. Fifty-four positions will be split between the Colorado State Office and the National Operations Center in Lakewood. Twenty-seven positions will be located in the BLM’s Headquarters in Grand Junction. Four additional positions will be allocated to the State Office. Colorado has diverse resource needs, ranging from minerals to recreation, and it also serves as a hub for the Bureau’s Geographic Information Systems (GIS) projects and priorities. As such, positions from nearly every Directorate will be located in the Lakewood offices. This includes Business and Fiscal Resources Management positions, which will allow both the State and the Bureau to benefit from the development of policies and procedures that directly impact day-to-day operations.

The relocation of these positions will also provide benefits in the transfer of knowledge from senior staff to the next generation through their proximity to State and field office personnel. Relocated staff will be able to provide a shared resource and expertise to support field operations. These employees will be able to take on complex strategic assignments, such as negotiating State Historic Preservation Office protocols and streamlining the policy development and review processes. Having these positions relocated to Colorado will enable these professionals to integrate into existing BLM work groups and networks and improve their functional capabilities.

**Eastern States:** Two positions currently in Washington, D.C., will be aligned to the Eastern States Office in the Washington, D.C. metropolitan area to address business and human resource support needs. In turn, the State Office will be in a position to better assist its employees who oversee its solid minerals program, strategic planning for recreation sites, and support for NEPA-related projects.

**Idaho:** Fourteen rangeland management positions currently in Washington, D.C., will be relocated and four additional positions will be allocated to the Idaho State Office in Boise to support the State’s staffing and policy priorities. Given BLM Idaho’s long and complex history of litigation, the State will benefit from additional resources in the range program to assist with the preparation of testimony and depositions. In addition, extra capacity to manage over 1,900 permits will greatly expand and enhance the State’s grazing program. The positions will also leverage national policy responsibilities and assignments to allow for more integrated coordination on a State basis. The public will benefit from better coordination of regulations, policy guidance, and other actions with the States.

**Montana/Dakotas:** Three headquarters positions will be allocated to the Montana/Dakotas State Office in Billings, Montana, to address needs specific to NEPA compliance, energy, minerals, and realty. Given the number of NEPA analyses in process, including those as a result of litigation, the presence of additional planning resources will expand the State Office’s capacity to address these matters with greater efficiency. Further, given that this State Office also covers activities in North Dakota, support for the energy, minerals, and realty related projects will be beneficial. In particular, the additional resources will allow for continued investments in the Access Initiative, consistent with Secretarial Order 3356 and 3373, specific to identifying landlocked public lands. This pilot program, which covers the entire western United States, is the
template for the Bureau in its efforts to expand its GIS capacities while promoting increased recreational access opportunities.

**Nevada:** Approximately 67 percent of the 48 million acres in Nevada is managed by the federal government. Nevada has several program areas that would benefit from the assignment of headquarters positions to the State Office in Reno. Specifically, the State has a demand for:

- National project management in the minerals program for the Anaconda Mine cleanup under the Comprehensive Environmental Response, Compensation, and Liability Act;
- National geothermal program management, given that Nevada has the largest program in the Bureau;
- National project management for utility scale renewable energy projects, including interstate transmission lines, and wind and solar energy projects; and
- Additional on-range management of the Bureau’s wild horse and burro program, given that Nevada has the highest horse and burro population in the nation.

These specialists will be an asset to Nevada’s workforce and will provide strategic planning, mentoring and knowledge transfer. For this reason, 32 positions currently in Washington, D.C., will be relocated and 17 additional positions will be allocated to the Nevada State Office.

A portion of these positions will support the State’s work on over 10 Environmental Impact Statements specific to mining and renewable energy projects. BLM Nevada also has the largest Mining Law Administration program and serves as the primary contact for all BLM State offices, which will help the Bureau leverage expertise when creating and implementing national policies on these matters. Positions tied to the National Conservation Lands program, which will provide the State with increased management support, will also be allocated to Nevada. And given that Nevada has the largest wild horse and burro populations, 12 of the 17 allocated positions will allow the State Office to expand and maximize its capacity to address challenges associated with that program. Collectively, this realignment will enable Nevada to leverage national program staff where the BLM resources, partners, and public land users are located.

**New Mexico:** Thirty-two positions currently in Washington, D.C., will be relocated and seven additional positions will be allocated to the New Mexico State Office in Santa Fe to perform priority and understaffed functions. This includes support for the minerals program and support for cultural, paleontological, and tribal programs. Given the significant activity across the State, including the revision of several Resource Management Plans, aligning staff to assist with both functions will benefit the public by having the capacity to leverage resources to promote better coordination, including with our partners on the ground.

Additional advantages specific to New Mexico include:

- Program alignment featuring more hands-on assistance, coaching and feedback;
- Enhanced training with corporate knowledge sharing, which directly bridges to the states.

BLM New Mexico’s planning development for Land Use Plans, as well as implementation of Public Law No. 116-9, will improve with access to, and more direct contact from, specialists—
particularly within the Resources and Planning and Energy, Minerals, and Realty Management Directorates. This is why a number of relocated positions within these programs will be available to help support State Office specific needs in these areas.

A number of the allocated positions are specific to communications, human resources, and budget support. These positions are being allocated to the State Office to expand its capacity for State-wide communications and enhance support for employees.

**Oregon/Washington:** Two positions currently in Washington, D.C. will be relocated and three additional positions will be allocated to the Oregon/Washington (OR/WA) State Office in Portland, Oregon. Given the ongoing work with both the Oregon and California Railroad Revested Lands (O&C Lands) and Public Domain forestry programs, the alignment of these staff will improve the development of national policies and regulations through on-the-ground experience and coordination with district and field staff.

Having the program leads in Oregon will greatly benefit the national lead in understanding and overseeing this unique program and will provide increased support and expertise to OR/WA. Projects in these States are also under a great deal of outside scrutiny and often litigated. A program lead in close proximity will provide direct and daily guidance to issuing defensible decisions. Further, allocating positions to OR/WA will allow the State Office to expand its human capital support while addressing vacancies to support its extensive recreation program, given the many developed campgrounds, recreation areas, wilderness areas, monuments and Wild and Scenic Rivers, and recent legislation that has increased its recreation offerings. Additional support will allow for improved coordination and communication on the ground with stakeholders.

**Utah:** Thirty-seven positions currently in Washington, D.C. will be relocated and seven additional positions will be allocated to the Utah State Office, which will enhance operations both at the State level and the District and Field Offices, as well. Positions include those derived from the National Conservation Lands program, which has an arm focused on recreation and visitor services. Given the growth in recreation opportunities across the State, these positions will provide increased support to the field while offering improved coordination with external partners and direct exposure to the resources the Division manages. Other positions which are tied to the Resources and Planning Directorate will provide additional capacity for the State’s many NEPA-specific projects. Lastly, positions under the Communications Directorate will be allocated to the State Office in order to better support the State’s public affairs needs, while also being strategically located in proximity to other Western States, enhancing the ability to respond quickly to emergencies.

BLM Utah’s priorities related to lands and realty, planning and environmental analysis, travel management, and air quality make these program areas particularly suitable for their location in Utah. Additionally, the State will benefit from positions allocated to the State Office to support the described above priorities as well.

**Wyoming:** Five positions currently in Washington, D.C., will be relocated and 10 additional positions will be allocated to the Wyoming State Office in Cheyenne. Placement in this State is
logical given that these positions are all directly tied to the Bureau’s leasing programs and there is an immediate staffing need to support programs in the Powder River Basin. Additionally, having the co-lead and economists for these programs located in Wyoming will provide a national leadership presence closest to the majority of the public served by the program. Some positions will support a number of immediate needs within the State, ranging from increases to the number of staff supporting Wild Horse and Burro Program needs, to additional support for the State’s own human capital, communications, and National Conservation Lands programs.

Collectively, this state-by-state approach is the most meaningful way to optimize positions across the Bureau’s western footprint. As discussed above, states will benefit from the presence of additional staff that possess experience and expertise in performing duties that address headquarters priorities, but which understand how to utilize that knowledge to advance each state’s localized, day-to-day operations. More importantly, the Bureau will be better able to serve the American people with an increased staffing presence closer to the resources it manages, which in turn will allow for more informed and locally coordinated decision making.

Conclusion

The implementation plan will delegate more responsibility and authority down to the field, optimize services available to the American people, is demonstrably cost-effective, and will provide an increased presence closer to the resources the BLM staff manages. As discussed in this letter, this is achieved through the following actions:

- Maintaining the necessary core headquarters functions in Washington, D.C.;
- Optimizing the efficiency of positions currently based in Washington, D.C. by relocating them to the State Offices across the West which their work supports;
- Allocating positions to State Offices to perform essential State Office functions;
- Establishing a Headquarters in Grand Junction, CO.

The redeployment of the BLM’s headquarters functions to Western locations is beneficial for the BLM’s employees and the constituents they serve and for every American taxpayer. The savings generated from reduced costs for facilities, travel, payroll, leases, etc., are significant. In addition, this initiative brings employees closer to the land they manage, which will result in more informed and better coordinated decisions made in the work the BLM does, so that land management decisions affecting the way of life for residents across the West will now be made and advised by staff based in the West, not in Washington, D.C.

This effort represents the Department’s role in fulfilling Congress’s commitment to the West more than 82 years ago by properly aligning the BLM’s function with its resources and constituents. We intend to begin implementation consistent with our spend plan allocation.

A similar letter is being sent to the Honorable Tom Udall, Ranking Minority Member, Subcommittee on Interior, Environment, and Related Agencies, Committee on Appropriations, United States Senate; the Honorable Betty McCollum, Chairman, Subcommittee on Interior, Environment, and Related Agencies, Committee on Appropriations, House of Representatives;
and the Honorable David Joyce, Ranking Minority Member, Subcommittee on Interior, Environment, and Related Agencies; Committee on Appropriations, House of Representatives.

Sincerely,

[Signature]

Joseph R. Balash
Assistant Secretary
Land and Minerals Management
Federal Legislative Update

Public Policy Committee
August 1, 2019

Jeff Gray, CAP Legislative Affairs Manager

Federal Update

Appropriations/Budget Negotiations

• On July 22, the White House and congressional leaders reached an agreement to suspend the debt ceiling until July 2021. As part of that agreement, the parties also agreed to two years of top-line numbers for federal funding for FY2020 & 2021.

• Now that a budget agreement has been reached, Senate appropriators will need to write and pass FY2020 appropriations bills and then reconcile them with the House versions by September 30, 2019.

• If the Senate fails to finish the appropriations process, it is likely there will be a continuing resolution until December 2019. A continuing resolution will hopefully allow for FY 2020 appropriations to be completed by December 31, 2019.
Colorado River Water Supply & Central Arizona Project Water Infrastructure

S.1932 Drought Resiliency and Water Supply Infrastructure Act

- Introduced in June by Senators Cory Gardner (R-CO), Diane Feinstein (D-CA), Martha McSally (R-AZ), and Kyrsten Sinema (D-AZ).
- Senate Energy & Natural Resources Subcommittee on Water & Power held a hearing on July 18.
- The bill would support water infrastructure in Reclamation states and provides for grant funding for both federally-owned and state-led storage projects.

CAP Position (June 6): Monitor with amendment

Recommended Position: SUPPORT

Indian Water Rights Settlements

H.R.2459/S.1277 Hualapai Tribe Water Rights Settlement Act

- Introduced on May 1, 2019 in both the House and Senate by Sen. Martha McSally and Rep. Tom O'Halleran.
- The legislation would approve the settlement of water rights claims of the Hualapai Tribe and certain allottees in the State of Arizona to authorize water project construction.
- A hearing was held on June 26, 2019 in the House Subcommittee on Water, Oceans, & Wildlife and included testimony from ADWR Director Tom Buschatzke.
- CAP submitted a letter of support for the record.

CAP Position: Support
Indian Water Rights Settlements

- The White Mountain Apache Tribe received two-year extension on settlement when the U.S. House voted in June to pass the extension when it passed its minibus spending bill.

- The Senate will need to pass the extension in their own appropriations bill once budget bills are introduced.

Central Arizona Project Authorities and Operations

H.R.748/S.684 Middle Class Health Benefits Tax Repeal Act

- The Legislation repeals a 40% excise tax on certain employer-provided health plans. The excise tax was established by the Affordable Care Act and would become effective in 2022. If the tax is not repealed, it is estimated to cost CAP $400,000 annually beginning in 2022.

- On July 17, the House approved H.R.748 by a vote of 419-6. The Senate version, S.684, has not yet received a hearing, but the Legislation is expected to pass sometime this year.

- H.R.748 has 369 cosponsors, including Representatives Tom O’Halleran (D-AZ-1), Ann Kirkpatrick (D-AZ-2), Raul Grijalva (D-AZ-3), Paul Gosar (R-AZ-4), Andy Biggs (R-AZ-5), David Schweikert (R-AZ-6), Ruben Gallego (D-AZ-7) and Debbie Lesko (R-AZ-8). S.684 has 42 cosponsors including Senators Martha McSally (R-AZ) and Kyrsten Sinema (D-AZ).
Federal Update

BLM Reorganization

• In July, the Department of Interior announced it will relocate more than 200 Bureau of Land Management (BLM) staff located in Washington, DC to offices in several western states.

• 85 positions will be relocated to Colorado, including 27 senior positions such as the BLM director, deputy director of operations, and assistant directors.

• 34 positions will be relocated to the Arizona State Office and the National Training Center, which is based in Phoenix.
To support water infrastructure in Reclamation States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 20, 2019

Mr. GARDNER (for himself, Mrs. FEINSTEIN, Ms. MCSALLY, and Ms. SINEMA) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To support water infrastructure in Reclamation States, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Drought Resiliency
and Water Supply Infrastructure Act”.

SEC. 2. DEFINITIONS.

In this Act:

(1) DESIGN; STUDY.—The terms “design” and
“study” include any design, permitting, materials
engineering or testing, surveying, or preconstruction
activity relating to a water storage facility.

(2) SECRETARY.—The term “Secretary” means
the Secretary of the Interior.

SEC. 3. SURFACE AND GROUNDWATER STORAGE AND SUP-
PORTING PROJECTS.

(a) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF CON-
GRESS.—The term “appropriate committees of Con-
gress” means—

(A) the Committee on Appropriations of
the Senate;

(B) the Committee on Energy and Natural
Resources of the Senate;

(C) the Committee on Appropriations of
the House of Representatives; and

(D) the Committee on Natural Resources
of the House of Representatives.

(2) ELIGIBLE ENTITY.—The term “eligible enti-
ty” means—

(A) any State, political subdivision of a
State, department of a State, or public agency
organized pursuant to State law;

(B) an Indian tribe (as defined in section
4 of the Indian Self-Determination and Edu-
cation Assistance Act (25 U.S.C. 5304)) or an entity controlled by an Indian tribe;

(C) a water users’ association;

(D) an agency established by an interstate compact; and

(E) an agency established under State law for the joint exercise of powers.

(3) Federally owned storage project.—
The term “federally owned storage project” means any project in a Reclamation State—

(A) that involves the construction, expansion, upgrade, or capital repair of—

(i) a surface water storage facility; or

(ii) a facility conveying water to or from a surface or groundwater storage facility;

(B) to which the United States holds title; and

(C) that was authorized to be constructed, operated, and maintained pursuant to—

(i) the reclamation laws; or

(ii) the Act of August 11, 1939 (commonly known as the “Water Conservation and Utilization Act”) (16 U.S.C. 590y et seq.).
(4) NON-FEDERAL STORAGE PROJECT.—The term “non-Federal storage project” means any project in a Reclamation State that—

(A) involves the construction, expansion, upgrade, or capital repair by an eligible entity of—

(i) a surface or groundwater storage facility that is not federally owned; or

(ii) a facility that is not federally owned conveying water to or from a surface or groundwater storage facility; and

(B) provides a benefit in meeting any obligation under applicable Federal law (including regulations).

(5) RECLAMATION LAWS.—The term “reclamation laws” means Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act.

(6) RECLAMATION STATE.—The term “Reclamation State” has the meaning given the term in section 4014 of the Water Infrastructure Improvements for the Nation Act (43 U.S.C. 390b note; Public Law 114–322).
(b) GRANT PROGRAM.—The Secretary may provide a grant under this section to an eligible entity to carry out, within a Reclamation State—

(1) a federally owned storage project in accordance with subsection (c); or

(2) a non-Federal storage project in accordance with subsection (d).

(c) FEDERALLY OWNED STORAGE PROJECTS.—

(1) AGREEMENTS.—On request of an eligible entity, the Secretary may negotiate and enter into an agreement on behalf of the United States for the design, study, construction, expansion, upgrade, or capital repair of a federally owned storage project located in a Reclamation State in accordance with this subsection.

(2) FEDERAL SHARE.—Subject to the requirements of this subsection, the Secretary may participate in a federally owned storage project in an amount equal to not more than 50 percent of the total cost of the federally owned storage project.

(3) CONDITIONS FOR FEDERAL CONSTRUCTION FUNDING.—The construction of a federally owned storage project that is the subject of an agreement under this subsection shall not commence until the Secretary—
(A) determines that the proposed federally owned storage project is feasible in accordance with the reclamation laws;

(B) determines that—

(i) the federally owned storage project provides a Federal benefit in accordance with the reclamation laws; and

(ii) not less than a proportionate share of the benefits of the federally owned storage project are Federal benefits, including water supplies dedicated to specific purposes, such as water quality improvements or fish and wildlife protection and restoration, including a wildlife refuge; and

(C) secures an agreement providing such upfront funding as is necessary to pay the non-Federal share of the capital costs of the federally owned storage project.

(4) Notification.—The Secretary shall submit to the appropriate committees of Congress a written notification of the determinations under paragraph (3) by not later than 30 days after the date of the determinations.

(5) Environmental laws.—In participating in a federally owned storage project under this sub-
section, the Secretary shall comply with all applicable environmental laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(6) EXPANSION OR UPGRADE.—The Secretary shall require, as a condition for design, study, or any other participation in the expansion or upgrade of a federally owned storage project—

(A) the agreement of any single entity that has an existing water service contract or repayment contract for more than 60 percent of the capacity or yield of the federally owned storage project that the expansion will not adversely affect any right or interest of the entity under the water service contract or repayment contract, as applicable; and

(B) the agreement of the non-Federal entity that, pursuant to a formal operations and maintenance transfer contract or other legal agreement with the Secretary, acting through the Commissioner of Reclamation, carries out the operations and maintenance of the federally owned storage project, if applicable.

(d) NON-FEDERAL STORAGE PROJECTS.—
(1) IN GENERAL.—Subject to the requirements of this subsection, the Secretary may participate in the design, study, construction, expansion, upgrade, or capital repair of a non-Federal storage project in an amount equal to not more than 25 percent of the total cost of the non-Federal storage project.

(2) CONDITIONS FOR FEDERAL DESIGN AND STUDY FUNDING.—The Secretary shall only fund a design or study activity for a non-Federal storage project under this subsection if—

(A) Federal participation has been requested by the Governor of the State in which the non-Federal storage project is located; and

(B) the Secretary has identified the potential for Federal benefit sufficient to proceed.

(3) CONDITIONS FOR FEDERAL CONSTRUCTION FUNDING.—Participation by the Secretary in the construction of a non-Federal storage project under this subsection shall not occur unless—

(A) the Governor of the State in which the non-Federal storage project is located has requested Federal participation at the time construction was initiated; and

(B) the applicable non-Federal sponsor determines, and the Secretary concurs, that—
(i) the non-Federal storage project is technically and financially feasible;

(ii) the non-Federal storage project provides a Federal benefit in accordance with the reclamation laws;

(iii) not less than a proportionate share of the benefits of the non-Federal storage project are Federal benefits, including water supplies dedicated to specific purposes, such as water quality improvements or fish and wildlife protection and restoration, including a wildlife refuge; and

(iv) each sponsor of the non-Federal project is financially capable of funding the non-Federal share of the project costs.

(4) NOTIFICATION.—The Secretary shall submit to the appropriate committees of Congress a written notification of the determinations under paragraphs (2) and (3) by not later than 30 days after the date of the determinations.

(5) ENVIRONMENTAL LAWS.—In participating in a non-Federal storage project under this subsection, the Secretary shall comply with all applicable environmental laws, including the National Envi-
(6) INFORMATION.—

(A) IN GENERAL.—In participating in a non-Federal storage project under this subsection, the Secretary—

(i) shall—

(I) generally, rely on reports prepared by the sponsor of the non-Federal storage project, including feasibility or equivalent studies, environmental analyses, and other pertinent reports and analyses; but

(II) retain responsibility for making the independent determinations described in paragraphs (2) and (3); and

(ii) may prepare studies supplementary to the studies described in clause (i)(I), on—

(I) request of the sponsor of the non-Federal storage project; and

(II) agreement by the Secretary.

(B) GUIDELINES.—
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(i) DRAFT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue draft guidelines for feasibility or equivalent studies for non-Federal storage projects prepared by a project sponsor that shall be consistent with requirements for a title XVI Feasibility Study Report, including the economic analysis, contained in the Reclamation Manual Directives and Standards numbered WTR 11–01, subject to—

(I) any additional requirements necessary to provide sufficient information for making the independent determinations described in paragraphs (2)(B) and (3); and

(II) the condition that the Bureau of Reclamation shall not bear responsibility for the technical adequacy of any design, cost estimate, or construction relating to a non-Federal storage project.

(ii) FINAL.—The Secretary shall finalize the guidelines under clause (i) by not
later than 1 year after the date of enactment of this Act.

(c) Rights To Use Capacity.—Subject to compliance with applicable Reclamation State water rights laws, the right to use the capacity of a federally owned storage project or non-Federal storage project with respect to which the Secretary has entered into an agreement under this subsection shall be allocated in such manner as may be mutually agreed to by the Secretary and each other party to the agreement, including any party described in subsection (e)(6)(B).

(f) Federal Benefits.—In making a determination relating to a Federal benefit under this section, the Secretary may include any benefit realized from the existence of operational flexibility to optimize the achievement of an authorized project purpose (whether reimbursable or nonreimbursable), taking into consideration the hydrology of a given water year, including through the coordinated management of Federal and non-Federal facilities.

(g) Funding.—

(1) Authorization of Appropriations.—There is authorized to be appropriated to the Secretary to carry out this section $670,000,000 for the period of fiscal years 2020 through 2024.
(2) Congressional approval initially required.—

(A) Design and study funding.—Each initial award under this section for design and study of a federally owned storage project or a non-Federal storage project shall be approved in an appropriations Act.

(B) Construction funding.—Each initial award under this section for construction of a federally owned storage project or a non-Federal storage project shall be approved in an appropriations Act.

(C) Reclamation recommendations.—

(i) In general.—Subject to clause (ii), the Commissioner of Reclamation shall submit to the appropriate committees of Congress recommendations regarding the initial award of design and study funding, and of construction funding, for each federally owned storage project and non-Federal storage project subject to consideration under subparagraphs (A) and (B).

(ii) Requirement.—The Commissioner of Reclamation shall confer with the appropriate committees of Congress before
submitting the recommendations under clause (i).

(3) **Subsequent Funding Awards.**—

(A) **Design and Study Funding.**—After approval by Congress of an initial award of design and study funding for a federally owned storage project or a non-Federal storage project under paragraph (2), the Secretary may award additional design and study funding for the federally owned storage project or non-Federal storage project without further congressional approval.

(B) **Construction Funding.**—After approval by Congress of an initial award of construction funding for a federally owned storage project or a non-Federal storage project under paragraph (2), the Secretary may award additional construction funding for the federally owned storage project or non-Federal storage project without further congressional approval.

(4) **Preliminary Studies.**—Of the amounts made available under paragraph (1), not more than 25 percent shall be provided for appraisal studies, feasibility studies, or other preliminary studies.

(5) **WIIN Act Storage Funding.**—
(A) Appropriations.—Each federally owned storage project and non-Federal storage project shall be eligible to receive any amounts made available pursuant to section 4007(h) of the Water Infrastructure Improvements for the Nation Act (43 U.S.C. 390b note; Public Law 114–322) (as in effect on the day before the date of enactment of this Act), in accordance with paragraphs (2) and (3).

(B) Individual projects.—

(i) Federally owned storage projects.—If the Secretary determines that a federally owned storage project is eligible for funding under section 4007(b) of the Water Infrastructure Improvements for the Nation Act (43 U.S.C. 390b note; Public Law 114–322), the federally owned storage project shall remain eligible for funding under subsection (c).

(ii) Non-Federal storage projects.—If the Secretary determines that a non-Federal storage project is eligible for funding as a State-led storage project under section 4007(c) the Water Infrastructure Improvements for the Na-
tion Act (43 U.S.C. 390b note; Public Law 114–322), the non-Federal storage project shall remain eligible for funding under subsection (d).

(h) **CONSISTENCY WITH STATE LAW.**—Nothing in this section preempts or modifies any obligation of the United States or an eligible entity to act in accordance with applicable State law.

(i) **PARTNERSHIP AND AGREEMENTS RELATING TO CERTAIN WATER STORAGE PROJECTS.**—The Secretary, acting through the Commissioner of Reclamation, may enter into a partnership or other agreement relating to a water storage project described in section 103 of the Calfed Bay-Delta Authorization Act (Public Law 108–361; 118 Stat. 1683) with a local joint-powers authority established pursuant to State law by 1 or more irrigation districts or other local water districts or units of local government within the applicable hydrologic region, to advance the project.


•S 1932 IS
(k) CONFORMING AMENDMENT.—Section 4007 of the Water Infrastructure Improvements for the Nation Act (43 U.S.C. 390b note; Public Law 114–322) is repealed.

SEC. 4. WATER RECYCLING AND REUSE.

(a) AUTHORIZATION OF NEW WATER RECYCLING AND REUSE PROJECTS.—Section 1602 of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h) is amended by striking paragraph (2) of subsection (f) and all that follows through the end of subsection (g) and inserting the following:

“(2) PRIORITIES AND DIVERSITY OF PROJECT TYPES.—In providing grants under paragraph (1), the Secretary shall—

“(A) give priority to projects that—

“(i) are likely to provide a more-reliable water supply for a unit of State or local government;

“(ii) are likely to increase the water management flexibility and reduce impacts on environmental resources; or

“(iii) provide multiple benefits, including water supply reliability, ecosystem benefits, groundwater management and enhancements, and water quality improvements; and
“(B) take into consideration selecting a diversity of project types, including projects that serve—

“(i) a region or more than 1 community;
“(ii) a rural or small community; or
“(iii) an urban community or city.

“(g) FUNDING.—

“(1) Authorization of Appropriations.—
There is authorized to be appropriated to the Secretary to carry out subsections (e) and (f) $100,000,000 for the period of fiscal years 2020 through 2024.

“(2) Funding Opportunity Announcement.—The Commissioner of Reclamation shall release a funding opportunity announcement for the competitive grant program under subsection (f) by not later than 75 days after the date of enactment of an Act that provides funding for the program.

“(3) Congressional Approval Initially Required.—

“(A) In General.—Each initial award under this section for design and study, or for construction, of a project under subsection (e)
or (f) shall be approved in an appropriations Act.

“(B) Reclamation Recommendations.—The Commissioner of Reclamation shall submit recommendations regarding the initial award of design and study funding and construction funding for consideration under subparagraph (A) to—

“(i) the Committee on Appropriations of the Senate;

“(ii) the Committee on Energy and Natural Resources of the Senate;

“(iii) the Committee on Appropriations of the House of Representatives; and

“(iv) the Committee on Natural Resources of the House of Representatives.

“(4) Subsequent Funding Awards.—After approval by Congress of an initial award of design and study funding or construction funding for a project under paragraph (3), the Commissioner of Reclamation may award additional design and study funding or construction funding, respectively, for the project without further congressional approval.”.
(b) LIMITATION ON FUNDING.—Section 1631(d) of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h–13(d)) is amended—

(1) in paragraph (1)—

(A) by striking “by paragraph (2)” and inserting “in paragraphs (2) and (3)”; and

(B) striking “$20,000,000 (October 1996 prices)” and inserting “$30,000,000 (in prices as determined for January 2019)”;

(2) in paragraph (2)—

(A) in subparagraph (B)—

(i) by striking “(B) In the case” and inserting the following:

“(B) SAN GABRIEL BASIN.—In the case”;

and

(ii) by indenting clauses (i) and (ii) appropriately; and

(B) by striking “(2)(A) Subject to” and inserting the following:

“(2) PROJECTS FUNDED AS OF 2020.—The Federal share of the cost of any single project authorized under this title shall be $20,000,000 if the project has received that amount as of December 31, 2020.

“(3) OLDER PROJECTS.—
“(A) In general.—Subject to”.

**SEC. 5. DESALINATION.**

Section 4(a) of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298) is amended by striking the second paragraph (1) (relating to projects) and inserting the following:

“(2) Projects.—

“(A) **Definition of eligible desalination project.**—In this paragraph, the term ‘eligible desalination project’ means any project located in a Reclamation State, or for which the construction, operation, sponsorship, or funding is the responsibility of, and the primary water supply benefit accrues to, 1 or more entities in a Reclamation State, that—

“(i) involves an ocean or brackish water desalination facility—

“(I) constructed, operated, and maintained by a State, Indian Tribe, irrigation district, water district, or other organization with water or power delivery authority; or

“(II) sponsored or funded by any State, department of a State, political subdivision of a State, or public agen-
cy organized pursuant to State law,
including through—

“(aa) direct sponsorship or
funding; or

“(bb) indirect sponsorship or
funding, such as by paying for
the water provided by the facility;
and

“(ii) provides a Federal benefit in ac-
cordance with the reclamation laws.

“(B) FEDERAL SHARE.—Subject to the re-
quirements of this paragraph, the Secretary
may participate in an eligible desalination
project in an amount equal to not more than 25
percent of the total cost of the eligible desalina-
tion project.

“(C) STATE ROLE.—Participation by the
Secretary in an eligible desalination project
under this paragraph shall not occur unless—

“(i)(I) the eligible desalination project
is included in a State-approved plan; or

“(II) the participation has been re-
quested by the Governor of the State in
which the eligible desalination project is lo-
cated; and
“(ii) the State or local sponsor of the eligible desalination project determines, and the Secretary concurs, that—

“(I) the eligible desalination project—

“(aa) is technically and financially feasible; and

“(bb) provides a Federal benefit in accordance with the reclamation laws; and

“(II) the non-Federal project sponsor is financially capable of funding the non-Federal share of the project costs; and

“(iii) the Secretary submits to Congress a written notification of the determinations under clause (ii) by not later than 30 days after the date of the determinations.

“(D) ENVIRONMENTAL LAWS.—In participating in an eligible desalination project under this paragraph, the Secretary shall comply with all applicable environmental laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).
“(E) INFORMATION.—In participating in an eligible desalination project under this subsection, the Secretary—

“(i) may rely on reports prepared by the sponsor of the eligible desalination project, including feasibility or equivalent studies, environmental analyses, and other pertinent reports and analyses; but

“(ii) shall retain responsibility for making the independent determinations described in subparagraph (C).

“(F) FUNDING.—

“(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $60,000,000 for the period of fiscal years 2020 through 2024.

“(ii) FUNDING OPPORTUNITY ANNOUNCEMENT.—The Commissioner of Reclamation shall release a funding opportunity announcement for a grant program under this paragraph by not later than 75 days after the date of enactment of an Act that provides funding for the program.
“(iii) Congressional approval initially required.—

“(I) In general.—Each initial award under this paragraph for design and study, or for construction, of an eligible desalination project shall be approved in an appropriations Act.

“(II) Reclamation recommendations.—The Commissioner of Reclamation shall submit recommendations regarding the initial award of design and study funding and construction funding for consideration under subclause (I) to—

“(aa) the Committee on Appropriations of the Senate;

“(bb) the Committee on Energy and Natural Resources of the Senate;

“(cc) the Committee on Appropriations of the House of Representatives; and

“(dd) the Committee on Natural Resources of the House of Representatives.
“(iv) Subsequent funding awards.—After approval by Congress of
an initial award of design and study funding or construction funding for an eligible
desalination project under clause (iii), the
Commissioner of Reclamation may award
additional design and study funding or
construction funding, respectively, for the
eligible desalination project without further
congressional approval.”.

SEC. 6. RECLAMATION INFRASTRUCTURE FINANCE AND IN-
NOVATION PILOT PROGRAM.

(a) Establishment.—The Secretary shall establish
and carry out a pilot program under which the Secretary
shall provide to eligible entities described in subsection (c)
financial assistance in accordance with this section to
carry out eligible projects described in subsection (b).

(b) Eligible Projects.—

(1) In general.—A project eligible to receive
assistance under the pilot program under this sec-
tion is a water supply project that, as determined by
the Secretary—

(A) is located in—

(i) the State of Alaska;

(ii) the State of Hawaii; or
(iii) a State or territory described in
the first section of the Act of June 17,
1902 (32 Stat. 388, chapter 1093; 43
U.S.C. 391);

(B) would contribute directly or indirectly
(including through groundwater recharge) to a
safe, adequate water supply for domestic, agri-
cultural, environmental, or municipal or indus-
trial use; and

(C) is otherwise eligible for assistance
under this section.

(2) PROJECTS ASSOCIATED WITH BUREAU OF
RECLAMATION FACILITIES.—A project that supports
an improvement to, or is associated with, a Bureau
of Reclamation facility shall be eligible to receive as-
sistance under the pilot program under this section
if—

(A) the project meets the criteria described
in paragraph (1);

(B) the eligible entity carrying out the
project demonstrates to the satisfaction of the
Secretary that the eligible entity is initiating
and implementing the project for non-Federal
purposes;
(C) the eligible entity retains or secures, through a long-term Federal property lease, operation and maintenance transfer agreement that provides for self-funding, or easement agreement with the Secretary, substantial control over the assets, operation, management, and maintenance of the project; and

(D) the project meets such other criteria as the Secretary may establish.

(3) SMALL COMMUNITY PROJECTS.—For projects eligible for assistance under this section and section 5028(a)(2)(B) of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 3907(a)(2)(B)), the Secretary may assist applicants in combining 1 or more projects into a single application in order to meet the minimum project cost of $5,000,000 required under that section.

(c) ELIGIBLE ENTITIES.—The following entities are eligible to receive assistance under this section:


(2) A conservancy district, Reclamation district, irrigation district, or water district.

(3) A canal company or mutual water company.
(4) A water users’ association.

(5) An agency established by an interstate compact.

(6) An agency established under State law for the joint exercise of powers.

(7) Any other individual or entity that has the capacity to contract with the United States under the reclamation laws.

(d) REQUIREMENTS.—

(1) PROJECT SELECTION.—In selecting eligible projects to receive assistance under the pilot program under this section, the Secretary shall ensure diversity with respect to—

(A) project type; and

(B) geographical location within the States referred to in subsection (b)(1)(A).

(2) IMPORTATION OF OTHER REQUIREMENTS.—

The following provisions of law shall apply to the pilot program under this section:

(A) Sections 5022, 5024, 5027, 5028, 5029, 5030, 5031, 5032, and 5034(a) of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 3901, 3903, 3906, 3907, 3908, 3909, 3910, 3911, 3913(a)), except that—
(i) any reference contained in those sections to the Secretary of the Army shall be considered to be a reference to the Secretary;

(ii) any reference contained in those sections to an eligible project shall be considered to be a reference to an eligible project described in subsection (b);

(iii) paragraphs (1)(E) and (6)(B) of subsection (a), and subsection (b)(3), of section 5028 of that Act (33 U.S.C. 3907) shall not apply with respect to this section; and

(iv) subsections (e) and (f) of section 5030 of that Act (33 U.S.C. 3909) shall not apply with respect to this section.

(B) The agreement between the Administrator of the Environmental Protection Agency and the Commissioner of Reclamation required under section 4301 of the America’s Water Infrastructure Act of 2018 (Public Law 115–270), pursuant to which the Administrator shall retain responsibility for administering any loans under this section.
(C) Other applicable environmental laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) Authorization of Appropriations.—

(1) In General.—There is authorized to be appropriated to the Secretary to carry out the pilot program under this section $150,000,000 for the period of fiscal years 2021 through 2025, to remain available until expended.

(2) Administrative Costs.—Of the funds made available pursuant to paragraph (1), the Secretary may use for administrative costs of carrying out the pilot program under this section (including for the provision of technical assistance to project sponsors pursuant to paragraph (3), to obtain any necessary approval, and for transfer to the Administrator of the Environmental Protection Agency to provide assistance in administering and servicing Federal credit instruments under the pilot program) not more than $5,000,000 for each applicable fiscal year.

(3) Small Community Projects.—

(A) In General.—Subject to subsection (b), the Commissioner may use the funds made available under paragraph (2) to provide assist-
ance, including assistance to pay the costs of acquiring the rating opinion letters under para-
graph (1)(D) of section 5028(a) of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 3907(a)), to assist project sponsors in obtaining the necessary approvals for small community projects that are eligible for assistance under paragraph (2)(B) of that section or subsection (b)(3).

(B) LIMITATION.—Assistance provided to a project sponsor under subparagraph (A) may not exceed an amount equal to 75 percent of the total administrative costs incurred by the project sponsor in securing financial assistance under this section.

SEC. 7. RESTORATION AND ENVIRONMENTAL COMPLIANCE.

(a) IN GENERAL.—The Secretary may participate in—

(1) environmental restoration activities benefit-
ting species—

(A) listed as threatened or endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) that are adversely affected by the operation of water projects of the Bu-
reau of Reclamation; or
(B) through water delivery from a Reclamation project to a wildlife refuge;

(2) environmental compliance activities, including stream gauging, monitoring, and other data collection activities, to assist water projects of the Bureau of Reclamation in—

(A) achieving the purposes of the projects; and

(B) fulfilling the duties of the Bureau under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536); and

(3) a forest, meadow, or watershed restoration activity on Federal land—

(A) that has the potential—

(i) to restore healthy forest or watershed conditions that improve the quality, timing, or other attributes of runoff to—

(I) a Bureau of Reclamation facility or project; or

(II) a surface or groundwater storage facility that is operated in conjunction with a Bureau of Reclamation facility or project;

(ii) to reduce the rate of sedimentation of a Bureau of Reclamation facility; or
(iii) to reduce the threat of wildfire that could affect runoff to, or sedimentation or structural integrity of, a Bureau of Reclamation facility; and

(B) with respect to which—

(i) the proportion that the amount of Federal funding under this section bears to the total cost of the project is approximately equal to, or less than, the proportion that water-related benefits bears to the total benefits of the project, as calculated by the Secretary using a methodology at the discretion of the Secretary; and

(ii) Federal water contractors are likely to receive at least part of the water supply or water quality benefits of the project.

(b) PRIORITY.—In carrying out this section, the Secretary shall give priority to restoration or environmental compliance activities that—

(1) implement congressional direction, such as projects described in—

(A) subsection (a)(3);
(B) section 4001 or 4010 of the Water Infrastructure Improvements for the Nation Act (Public Law 114–322; 130 Stat. 1851); or

(C) congressionally authorized species recovery programs on the Colorado River;

(2) are recommended by collaborative processes or plans developed by Federal agencies in conjunction with States, water contractors, environmental or fishing interests, or other stakeholders; or

(3) implement settlements with State agencies or requirements under State water laws to restore species listed as threatened or endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or other species adversely affected by the operation of water projects of the Bureau of Reclamation.

(c) COST-SHARE.—

(1) IN GENERAL.—The Federal share of the cost of any individual program, activity, or project carried out using funds made available pursuant to this section—

(A) shall be not more than 50 percent; and

(B) shall be nonreimbursable.

(2) PROGRAM-LEVEL CALCULATION.—The Federal cost-share described in paragraph (1) shall be
calculated at the program level, at which a group of activities or projects are considered to be a part of a broader, cohesive program.

(d) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary—

(1) $20,000,000 to carry out subsection (a)(3) for the period of fiscal years 2020 and 2021; and

(2) $120,000,000 to carry out this section for the period of fiscal years 2022 through 2024.

(e) Applicable Law.—Nothing in this section shall be interpreted or implemented in a manner that—

(1) preempts or modifies any obligation of the United States under Federal law to act in accordance with applicable State law, including applicable State water law; or

(2) affects or modifies any obligation under Federal environmental law.

SEC. 8. DEAUTHORIZATION OF CERTAIN WATER RECYCLING PROJECTS.

(a) Purpose; Definition.—

(1) Purpose.—The purpose of this section is to establish an efficient and transparent 1-time process for deauthorizing Bureau of Reclamation title XVI projects that have failed—
(A) to receive a minimum level of Federal investment; or

(B) to initiate construction.

(2) Definition of Title XVI Project.—In this section, the term “Title XVI project” means a project authorized by Title XVI of Public Law 102-575 (43 U.S.C. 390h et seq.).

(b) Backlog List.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, and make available on a publicly accessible internet website in a manner that is downloadable, searchable, and sortable, a list of—

(1) Title XVI projects—

(A) that are authorized; and

(B) for which, during the fiscal year in which this Act is enacted and each of the preceding 10 fiscal years—

(i) no application for Federal funding has been received; and

(ii) no construction has occurred; and

(2) for each Title XVI project listed under paragraph (1)—
(A) the date of authorization of the title XVI project, including any subsequent modifications to the original authorization;

(B) a brief description of the title XVI project; and

(C) any amounts appropriated for the title XVI project that remain unobligated.

(c) INTERIM DEAUTHORIZATION LIST.—

(1) IN GENERAL.—The Secretary shall develop and make publicly available an interim deauthorization list that identifies each title XVI project described in subsection (b)(1).

(2) PUBLIC COMMENT AND CONSULTATION.—

(A) IN GENERAL.—The Secretary shall solicit and accept, for a period of not less than 90 days, comments relating to the interim deauthorization list under paragraph (1) from—

(i) the public; and

(ii) the Governor of each applicable State.

(B) PROJECT SPONSORS.—As part of the public comment period under subparagraph (A), the Secretary shall provide to title XVI project sponsors the opportunity to provide to the Secretary a notice of the intent to initiate construc-
tion of the title XVI project by not later than
the date that is 2 years after the date of publi-
cation of the preliminary final deauthorization
list under subsection (d).

(3) Submission to Congress; publication.—Not later than 90 days after the date of sub-
mission of the backlog list under subsection (b), the
Secretary shall—

(A) submit the interim deauthorization list
under paragraph (1) to the Committee on En-
ergy and Natural Resources of the Senate and
the Committee on Natural Resources of the
House of Representatives; and

(B) publish the interim deauthorization list
in the Federal Register.

(d) Preliminary Final Deauthorization List.—

(1) In general.—The Secretary shall develop
a preliminary final deauthorization list that includes
each title XVI project identified pursuant to para-
graph (2).

(2) Identification of projects.—

(A) Exclusions.—The Secretary may
identify a title XVI project described in sub-
section (b)(1) for exclusion from the prelimi-
nary final deauthorization list if the Secretary
determines, on a case-by-case basis following receipt of public comments, that the title XVI project is critical for interests of the United States, based on the practicable impact of the title XVI project on—

(i) public health and safety;

(ii) the national economy; or

(iii) the environment.

(B) SUBJECT TO DEAUTHORIZATION DESIGNATION.—Any title XVI project the sponsor of which has provided to the Secretary a notice of the intent to initiate construction by not later than 2 years after the date of publication of the preliminary final deauthorization list under this subsection shall be designated on that list as “subject to deauthorization”.

(C) APPENDIX.—The Secretary shall include as part of the preliminary final deauthorization list under this subsection an appendix that—

(i) identifies each title XVI project included on the interim deauthorization list under subsection (e) that is not included on the preliminary final deauthorization list; and
(ii) describes the reasons why each
title XVI project identified under clause (i)
is not included on the preliminary final de-
authorization list.

(3) Submission to Congress; Publication.—Not later than 120 days after the date of ex-
piration of the public comment period under sub-
section (c)(2)(A), the Secretary shall—

(A) submit to the Committee on Energy
and Natural Resources of the Senate and the
Committee on Natural Resources of the House
of Representatives the preliminary final de-
authorization list and the appendix required
under this subsection; and

(B) publish the preliminary final deauthor-
ization list and appendix in the Federal Reg-
ister.

(e) Deauthorization; Congressional Review.—
Effective beginning on the date that is 180 days after the
date of submission to Congress of the preliminary final
deauthorization list under subsection (d)(3)(A), each title
XVI project included on that list is deauthorized, unless—

(1) the title XVI project is designated as “sub-
ject to deauthorization” pursuant to subsection
(d)(2)(B); or
(2) Congress has enacted a joint resolution disapproving the preliminary final deauthorization list.

(f) Updated Final Deauthorization List.—

(1) Publication.—Not later than the date that is 2 years after the date of publication of the preliminary final deauthorization list under subsection (d)(3)(B), the Secretary shall publish an updated final deauthorization list.

(2) Projects Subject to Deauthorization.—On the updated final deauthorization list under this subsection, the Secretary shall describe any title XVI project designated as “subject to deauthorization” on the preliminary final deauthorization list pursuant to subsection (d)(2)(B) as—

(A) authorized, if the Secretary has received evidence that the sponsor of the title XVI project has substantially initiated construction on the title XVI project; or

(B) deauthorized, if the Secretary has not received the evidence described in subparagraph (A).

(3) Deauthorization.—Any project described as deauthorized pursuant to paragraph (2)(B) shall be deauthorized on the date that is 180 days after the date of submission of the updated final de-
authorization list under paragraph (1), unless Congress has enacted a joint resolution disapproving that list.

(g) TREATMENT OF PROJECT MODIFICATIONS.—For purposes of this section, if a title XVI project has been modified by an Act of Congress, the date of authorization of the title XVI project shall be considered to be the date of the most recent modification.

SEC. 9. OFFSETS.

(a) DEFINITION OF WATER USERS’ ASSOCIATION.—

In this section:

(1) IN GENERAL.—The term “water users’ association” means an entity that is—

(A) organized and recognized under applicable State law; and

(B) eligible to enter into contracts with the Bureau of Reclamation—

(i) to receive contract water for delivery to end users of the water; and

(ii) to pay applicable charges relating to that water.

(2) INCLUSIONS.—The term “water users’ association” includes—

(A) an association;

(B) a conservancy district;
(C) an irrigation district;

(D) a municipality;

(E) a water project contract unit; and

(F) any similar entity described in paragraph (1).

(b) Prepayment of Certain Repayment Contracts.—

(1) Conversion and Prepayment.—On receipt of a request from a party to the contract, the Secretary shall convert any water service contract in effect on the date of enactment of this Act between the United States and a water users' association to allow for prepayment of the contract pursuant to paragraph (2) under mutually agreeable terms and conditions, subject to the conditions that—

(A) a water service contract entered into under subsection (e) of section 9 of the Act of August 4, 1939 (53 Stat. 1193, chapter 418), proposed to be converted under this subsection shall be converted to a repayment contract under subsection (d) of that section; and

(B) a water service contract entered into under subsection (e)(2) of section 9 of the Act of August 4, 1939 (53 Stat. 1193, chapter 418), proposed to be converted under this sub-
section shall be converted to a contract under subsection (e)(1) of that section.

(2) PREPAYMENT.—Except for a repayment contract under which the contractor has previously negotiated for prepayment, on request of a party to the contract, a repayment contract under section 9(d) of the Act of August 4, 1939 (53 Stat. 1195, chapter 418), in effect on the date of enactment of this Act, and all contracts converted pursuant to paragraph (1)(A), shall—

(A) provide for the repayment, in lump sum or by accelerated prepayment, of the remaining construction costs identified in water project-specific irrigation rate repayment schedules, as adjusted to reflect payments not reflected in those schedules, and properly assignable for ultimate return by the contractor, or if made in approximately equal installments, not later than 3 years after the effective date of the repayment contract, subject to the conditions that—

(i) the amount shall be discounted by \( \frac{1}{2} \) the Treasury rate; and

(ii) an estimate of the remaining construction costs, as adjusted, shall be pro-
vided by the Secretary to the contractor by
not later than 90 days after the date of re-
ceipt of a request from the contractor;

(B) require that construction costs or
other capitalized costs incurred after the effect-
tive date of the contract or not reflected in the
rate schedule referred to in subparagraph (A),
and properly assignable to the contractor, shall
be repaid—

(i) by not later than 5 years after the
date of notification of the allocation if the
amount is a result of a collective annual al-
location of capital costs to the contractors
exercising contract conversion under this
subsection of less than $5,000,000; or

(ii) if the amount is equal to
$5,000,000 or more, in accordance with
applicable reclamation laws;

(C) provide that power revenues will not be
available to aid in repayment of construction
costs allocated to irrigation under the contract;
and

(D) continue in effect for the period during
which the contractor pays applicable charges, in
accordance with section 9(d) of the Act of Au-
gust 4, 1939 (53 Stat. 1195, chapter 418), and
other applicable law.

(3) COVERED CONTRACT REQUIREMENTS.—

(A) DEFINITION OF COVERED CONTRACT.—In this paragraph:

(i) IN GENERAL.—The term “covered contract” means—

(I) on request of the contractor, a repayment contract under sub-
section (c)(1) of section 9 of the Act of August 4, 1939 (53 Stat. 1193,
chapter 418), that is in effect on the date of enactment of this Act; and

(II) a contract converted pursuant to paragraph (1)(B).

(ii) EXCLUSION.—The term “covered contract” does not include a repayment contract under which the contractor has previously negotiated for prepayment.

(B) REQUIREMENTS.—Each covered con-
tract shall—

(i) provide for the repayment, in lump sum, of the remaining construction costs identified in water project-specific irrigation rate repayment schedules, as adjusted
to reflect payments not reflected in those
schedules, and properly assignable for ulti-
mate return by the contractor, subject to
the condition that the contractor shall sub-
mit to the Secretary an estimate of any re-
mainning construction costs, as adjusted, by
not later than 90 days after the date of
submission of the initial request of the con-
tractor;

(ii) require that construction costs or
other capitalized costs incurred after the
effective date of the contract or not re-
ferred in the rate schedule referred to in
clause (i), and properly assignable to the
contractor, shall be repaid—

(I) by not later than 5 years
after the date of notification of the al-
location, if the amount is a result of
a collective annual allocation of cap-
ital costs to the exercising contract
conversion under this subsection of
less than $5,000,000; or

(II) in accordance with applicable
reclamation laws, if the amount is
$5,000,000 or more; and
(iii) continue in effect for the period during which the contractor pays applicable charges, in accordance with section 9(c)(1) of the Act of August 4, 1939 (53 Stat. 1194, chapter 418), and other applicable law.

(4) CONDITIONS.—A contract entered into pursuant to paragraph (1), (2), or (3)—

(A) shall not be adjusted on the basis of the type of prepayment financing used by the applicable water users’ association;

(B) shall conform to any other agreements, such as applicable settlement agreements and newly constructed appurtenant facilities agreements; and

(C) shall not modify any other water service, repayment, exchange, or transfer contractual right between the applicable water users’ association and the Bureau of Reclamation, or any right, obligation, or relationship of the water users’ association and any affected landowner in accordance with applicable State law.

(e) ACCOUNTING.—

(1) FINAL COST ALLOCATION.—Any amount paid pursuant to subsection (b) shall be subject to
adjustment after a final cost allocation by the Secretary.

(2) CONTRACTOR RESPONSIBILITY.—

(A) IN GENERAL.—If a final cost allocation under paragraph (1) indicates that a cost properly assignable to a contractor covered by this section is greater than the amount paid by the contractor, the contractor shall be obligated to pay the remaining allocated costs in accordance with an additional repayment contract under subparagraph (B).

(B) ADDITIONAL REPAYMENT CONTRACTS.—Subject to any other provision mutually agreed to by all affected parties, the term of an additional repayment contract under subparagraph (A) shall be—

(i) not less than 1 year; and

(ii) not more than 10 years.

(3) CREDIT.—If a final cost allocation under paragraph (1) indicates that a cost properly assignable to a contractor are less than the amount paid by the contractor, the Secretary shall credit the amount of the overpayment as an offset against any outstanding or future obligation of the contractor, with the exception of any Central Valley Project
Restoration Fund charge assessed pursuant to section 3407(d) of Public Law 102–575 (106 Stat. 4727).

(d) **Applicability of Certain Provisions.**—

(1) **Effect of existing law.**—On compliance by a contract or with, and discharge of, an obligation of repayment of construction costs pursuant to a contract under subsection (b)(2)(A), subsections (a) and (b) of section 213 of the Reclamation Reform Act of 1982 (43 U.S.C. 390mm) shall apply to any affected land.

(2) **Effect of other obligations.**—On payment by a contractor of any amount required under a repayment contract under subsection (b)(2)(A), the obligation of a contractor to repay construction costs or other capitalized costs described in subsection (b)(2)(B), (b)(3)(B), or (c) shall not affect—

(A) the status of the contractor as having repaid all construction costs assignable to the contractor; or

(B) the applicability of subsections (a) and (b) of section 213 of the Reclamation Reform Act of 1982 (43 U.S.C. 390mm).

(e) **Effect on existing law.**—Nothing in this section alters—
(1) any repayment obligation of a water service or repayment contractor receiving water from the same water project, or shifts any cost that would otherwise have been properly assignable to—

(A) a water users’ association identified in paragraph (1), (2), or (3) of subsection (b), including—

(i) operation and maintenance costs;

(ii) construction costs; or

(iii) any other capitalized cost incurred after the date of enactment of this Act; or

(B) another contractor;

(2) any specific requirement for the disposition of amounts received as repayment by the Secretary under Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.));

(3) the priority of a water service or repayment contractor to receive water; or

(4) except as expressly provided in this section, any obligation under the reclamation laws, including the continuation of any Central Valley Project Restoration Fund charge assessed pursuant to section
3407(d) of Public Law 102–575 (106 Stat. 4727),
of a water service or repayment contractor making
a prepayment pursuant to this section.

(f) CONFORMING AMENDMENT.—Section 4011 of the
Water Infrastructure Improvements for the Nation Act
(Public Law 114–322; 130 Stat. 1878) is repealed.

SEC. 10. SAVINGS CLAUSE.

Nothing in this Act or an amendment made by this
Act shall be interpreted or implemented in a manner
that—

(1) preempts or modifies any obligation of the
United States or an eligible entity under Federal law
to act in accordance with applicable State law, in-
cluding applicable State water law; or

(2) affects or modifies any obligation under
Federal environmental law.